IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 18TH JUNE 2007 / 28TH JYAISHTA 1929

WP(C).No. 4811 of 2007(W)

PETITIONER:

M. UMESH BABU, AGED 40,
S/O.LATE P. NARAYANAN NAIR, `NANDANAM'
NEAR FEDERAL BANK, P.O.MANANTHAVADY,
WAYANAD DISTRICT.

BY ADV. SRI.V.R.KESAVA KAIMAL
SRI.N.M.MADHU
SMT.C.S.RAJANI

RESPONDENTS:
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1. THE REVENUE DIVISIONAL OFFICER,
MANANTHAVADY, WAYANAD DISTRICT.

2. THE TAHSILDAR, MANANTHAVADY TALUK,
MANANTHAVADY, WAYANAD DISTRICT.

BY G.P. SRI.MOHAMMED RAFIQ

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

P1: PHOTOCOPY OF THE APPROVED PLAN.

P2: PHOTOCOPY OF LATEST PROPERTY TAX RECEIPT.

P3: PHOTOCOPY OF DEMAND NOTICE ISSUED BY R2.

P4: PHOTOCOPY OF APPEAL MEMO.

P5: PHOTOCOPY OF NOTES OF HEARING.

P6: PHOTOCOPY OF ORDER DT.5.1.07 PASSED BY R1.

P7: PHOTOCOPY OF DEMAND NOTICE DT.31.1.07 ISSUED BY R2.

TRUE COPY

P.A. TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) No.4811 of 2007

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Dated this the 18th day of June, 2007.

JUDGMENT

Dispute is with regard to plinth area of petitioner's residential building. Strangely, measurement of the plinth area done by different revenue officials at different stages vary substantially. Plinth area is defined under the Act and I see no reason why there should be a dispute on plinth area if it is properly measured. In any case having regard to the dispute, W.P. is disposed of directing second respondent to avail the service of the Assistant Executive Engineer, PWD who is directed to issue notice to the petitioner and second respondent, measure the plinth area of the building and file a report to the second respondent. The Assistant Executive Engineer should earmark each area, describe the same and measure the plinth area so that if there is a dispute whether an area constitutes plinth area or not, it can be settled in adjudication proceedings by second respondent. I make it clear that plinth area to be adopted for assessment should be the actual plinth area constructed and not the plinth area shown in the plan. There will be direction to the second respondent to issue re-assessment order after receipt of report from the Assistant Executive

Engineer, PWD and after hearing the petitioner within three months from now. All recovery proceedings will be kept in abeyance for three months from now and thereafter recovery will be based on assessment of actual plinth area as revealed by the report of the Assistant Executive Engineer.

W.P. is disposed of as above.

C.N.RAMACHANDRAN NAIR
Judge

pms